

ORDINANCE NO. _____, SERIES 2007

AN ORDINANCE RE-ENACTING LOUISVILLE METRO CODE OF ORDINANCES (LMCO) SECTIONS 137.01 – 137.99 REGARDING JUVENILE OFFENSES.

Sponsored By: Councilmen Kramer, Downard and Blackwell

BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

SECTION I: Pursuant to the provisions of KRS 67C.115(2), LMCO Sections

137.01 – 137.99 are hereby reenacted as follows:

§ 137.01 DEFINITIONS.

The following words, terms and phrases when used in this Ordinance shall have the meanings ascribed to them in this Ordinance, unless the context clearly indicates or requires another meaning:

(A) **MINOR.** Any person under the age of 18, or as may be otherwise phrased, any person of the age of 17 or under.

(B) **PARENT.** Any person having legal custody of a minor:

- (1) As a natural or adoptive parent;
- (2) As a legal guardian;
- (3) As a person who stands in loco parentis; or
- (4) As a person whom legal custody has been given by order of

court.

(C) **REMAIN.** To stay behind, tarry, linger, congregate, move about, wander, stroll, or stay unnecessarily upon or in any public assembly, building, place, street, or highway.

(D) **ALLOW.** Either permit or neglect to prevent. It requires actual or constructive knowledge on the part of the parent or guardian, that is, the parent or guardian must actually know about the minor violating this section, or the circumstances must be such that a reasonably prudent parent or guardian should have known the minor was violating this Ordinance.

§ 137.02 HOURS OF CURFEW.

(A) It shall be unlawful for any person under the age of 18 to be or remain in or upon any public assembly, building, place, street, or highway within Jefferson County at night during the following periods:

1:00 a.m. to 6:00 a.m. Saturday

1:00 a.m. to 6:00 a.m. Sunday

11:00 p.m. Sunday to 6:00 a.m. Monday

11:00 p.m. Monday to 6:00 a.m. Tuesday

11:00 p.m. Tuesday to 6:00 a.m. Wednesday

11:00 p.m. Wednesday to 6:00 a.m. Thursday

11:00 p.m. Thursday to 6:00 a.m. Friday

(B) It shall be unlawful for any parent or guardian having legal custody of a minor to allow such minor to be or remain in or upon a public assembly, building, place, street, or highway in Jefferson County under circumstances not constituting an exception as enumerated in § 137.03 during the time periods contained in § 137.02(A).

§ 137.03 EXCEPTIONS.

In the following exceptional cases a minor in or upon any public assembly, building, place, street, or highway in Jefferson County during the nocturnal hours provided for in § 137.02(A) shall not be considered in violation of this Ordinance:

(A) When the minor is accompanied by a parent or guardian;

(B) When accompanied by an adult authorized by a parent or guardian of such minor;

(C) When exercising first amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly, provided that written notice signed by the minor and countersigned by a parent is in the possession of such minor specifying when, where, and in what manner said minor will be exercising such First Amendment rights;

(D) In case of reasonable necessity but only after such minor's parent has communicated to the ~~Division of Police~~ Louisville Metro Police Department the facts establishing such reasonable necessity;

(E) When the minor is on the sidewalk contiguous to the place where such minor resides, or on the sidewalk contiguous to a next-door neighbor who has not communicated an objection to a police officer or the ~~Division of Police~~ Louisville Metro Police Department;

(F) When returning home, by a direct route from, and within one hour of the termination of, a school activity, or any activity of a religious or other voluntary association, provided that justification indicating the place and time of

termination of said event can be given to any investigating officer of the ~~Division of Police~~ Louisville Metro Police Department;

(G) When authorized by regulation issued by the Mayor in cases of reasonable necessity involving more minors than may reasonably be dealt with on an individual basis. Such regulation should be issued sufficiently in advance to permit publicity through news media and through other agencies such as the schools. The regulation shall define the activity, the scope of the use of the public assembly, building, place, street, or highway permitted, and the period of time involved not to extend more than one hour beyond the time for termination of the activity, and the reason for finding that such regulation is reasonably necessary. The Mayor shall notify the ~~Division of Police~~ Louisville Metro Police Department of said information;

(H) When engaged in a business or occupation which the laws of Kentucky authorize a person under 18 years of age to perform;

(I) When the minor is, with parental consent, in a motor vehicle with a lawfully authorized driver;

(J) When the minor, who is a duly authorized and licensed driver, is operating a motor vehicle within Jefferson County for the purpose of passing through, by direct route, from one location to another either within or out of the county, including all minors that may also be within the vehicle;

(K) When the minor is married in accordance with law or has had his/her disability of non-age removed by a court of competent jurisdiction.

§ 137.04 ENFORCEMENT.

(A) A police officer upon finding or being notified of any minor in or upon any public assembly, building, place, street, or highway whose parent is believed to be in violation of § 137.02 may stop and question such minor and request such information as his or her name and age and the name and address of his or her name and age and the name and address of his or her parent, guardian, or person having legal custody.

(B) If the police officer determines or has reasonable cause to believe that a curfew violation has occurred, the police officer may obtain from the minor the information necessary to issue a citation to the minor's parent, guardian, or person having legal custody.

(C) Any minor found in violation of § 137.02 shall be:

(1) Directed to proceed immediately to his or her home; or

(2) Under the authority of KRS 630.030, may be taken into custody by any peace officer:

(a) Pursuant to an order of the Court for failure to appear before the Court for a previous status offense; or

(b) If there are reasonable ground to believe that the child has been an habitual runaway from his parent or person exercising custodial control or supervision of the child.

(3) With permission of the minor's parent, may be returned by the police officer to said parent. Permission to return a minor subsequent to a violation of any section of § 137.02 may be given telephonically to the police officer by a minor's parent. A parent may also grant prior permission to the

~~Louisville/Jefferson County~~ Louisville Metro Police Department to return that parent's minor child or children to said parent, in the event said minor child or children are found in violation of § 137.02, by providing written authorization on a form to be provided by the ~~Louisville/Jefferson County~~ Louisville Metro Police Department. The ~~Louisville/Jefferson County~~ Louisville Metro Police Department shall endeavor to make such authorization forms available to all parents residing in Jefferson County.

§ 137.05 CONSTRUCTION AND SEVERABILITY.

Severability is intended throughout and within the provisions of §§ 137.01 through 137.05. If any provision, including any exception, part, phrase, or term, or the application thereof to any person or circumstances is held invalid, the application to other persons or circumstances shall not be affected thereby and the validity of the ordinance in any and all other respects shall not be affected thereby.

§ 137.20 DEFINITIONS.

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(A) ***STUDENT.*** Any person between the age of six and 18 who is required by law to attend school.

(B) ***PARENT.*** Any person having legal custody of a minor:

- (1) As a natural or adoptive parent;
- (2) As a legal guardian;

(3) As a person whom legal custody has been given by order of court.

(C) **REMAIN.** To stay behind, tarry, linger, congregate, move about, wander, stroll, or stay unnecessarily upon or in any public assembly, building, place, street, or highway.

(D) **ALLOW.** Either to permit or neglect to prevent. It requires actual or constructive knowledge on the part of the parent or guardian, that is, the parent or guardian must actually know that the student is violating this ordinance, or the circumstances must be such that a reasonably prudent parent or guardian should have known the student was violating this ordinance.

§ 137.21 SCHOOL ATTENDANCE REQUIRED WHEN STUDENT'S SCHOOL IN SESSION.

(A) It shall be unlawful for any student to be or remain in or upon any public assembly, building, place, street, or highway within Jefferson County when the student's school is in session.

(B) It shall be unlawful for any parent or guardian having legal custody of a student to allow such student to be or remain in or upon a public assembly, building, place, street, or highway in Jefferson County, under circumstances not constituting an exception as enumerated in § 137.22, when the student's school is in session.

§ 137.22 EXCEPTIONS.

In the following exceptional cases a student in or upon any public assembly, building, place, street, or highway in Jefferson County during the school hours shall not be considered in violation of this section:

- (A) When the student is accompanied by a parent;
- (B) When accompanied by an adult authorized in writing by a parent;
- (C) When the student has a card issued by the student's school giving permission for the absence.

(D) Each school has a right to elect not to participate in this program upon forwarding a notarized letter signed by the school's principal to the Chief of the ~~Metro Division of Police~~ Louisville Metro Police Department stating the principal's desire to not have the daytime curfew enforced upon its students.

§ 137.23 ENFORCEMENT.

(A) Until such time as the Kentucky Revised Statutes are amended to allow a police officer to transport a student back to a school facility designated by the School District, a police officer upon finding or being notified of any student in or upon any public assembly, building, place, street, or highway whose parent is believed to be in violation of this section may stop and question such student and request such information as his or her name and age, the name and address of his or her parent, guardian, or person having legal custody, and the name of the school the student attends.

(B) If the police officer determines or has reasonable cause to believe that a school attendance violation has occurred, the police officer may obtain

from the student the information necessary to issue a warning to the student's parent, guardian, or person having legal custody.

(C) Any minor found violating this school attendance ordinance shall be directed to proceed immediately to his or her school.

§ 137.98 SEVERABILITY.

If any provision of this chapter as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 137.99 PENALTY.

(A) Any parent, guardian, or person having legal custody of a minor allowing a minor to violate § 137.02 shall be subject to a fine of no more than \$500.

(B) Any parent of a student who violates § 137.21(B) shall be issued a warning notice upon the first and second such violation by the student. The third and subsequent violations shall be treated as an offense of the parent and shall subject the parent to a fine of no more than \$100.

SECTION II: This Ordinance shall take effect upon its passage and approval.

Kathleen J. Herron
Metro Council Clerk

Rick Blackwell
President of the Council

Jerry E. Abramson
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Irv Maze
Jefferson County Attorney

BY: _____
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